



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 06579-99
12 January 2000

GYSG [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Gunnery Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 21 October 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board was unable to find the contested fitness report was used as a counseling tool, or that it attacks your religious beliefs by stating you had a "holier than thou attitude." They found nothing objectionable in the reporting senior's concession that she considered input from others in preparing the report at issue. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6579-99

IN REPLY REFER TO:
1610
MMER/PERB
OCT 21 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
GUNNERY SERGEANT [REDACTED] USMC

Ref: (a) GySgt [REDACTED] Form 149 of 30 Jun 99
(b) MCO P1610.7D w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 13 October 1999 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970301 to 970709 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that he was not the recipient of any Page 11 or 12 entries in his Service Record Book prior to receiving the adverse fitness report. It is his position that the report is vindictive, vengeful, attacks his religious beliefs, and was utilized as a counseling tool.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. The formal action of counseling entries in a Marine's Service Record Book and the recording of performance via the fitness report are two separate and unrelated administrative actions. One is not dependent on the other. Consequently, the petitioner's argument that he had received no previous Page 11 or 12 entries is considered without merit or substance.

b. Other than his own statement (a reiteration of his initial rebuttal to the fitness report), the petitioner has produced absolutely nothing whatsoever to support any of his allegations or prove his arguments. Likewise, we find nothing to show precisely how or why the petitioner may have rated more than what has been recorded. To this end, the Board concludes that the petitioner has failed to meet the burden of proof necessary to establish the existence of either an error or an injustice.

(3) PERB

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
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4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Gunnery Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps